

ESTTA Tracking number: **ESTTA424642**

Filing date: **08/11/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92054191
Party	Defendant LFP IP, LLC
Correspondence Address	LFP IP LLC 8484 WILSHIRE BOULEVARD, SUITE 900 BEVERLY HILLS, CA 90211 UNITED STATES
Submission	Answer
Filer's Name	Jeffrey F. Reina
Filer's e-mail	ip@lglaw.com
Signature	/Jeffrey F. Reina/
Date	08/11/2011
Attachments	Answer.pdf (7 pages)(178953 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE

TRADEMARK TRIAL AND APPEAL BOARD

Respondent: LFP IP, LLC
Registration No.: 3967963
Cancellation No. 92054191
Registered: May 24, 2011
Mark: ALWAYS A HAPPY ENDING

BUDDHA ENTERTAINMENT LLC, ASIA LAS VEGAS LLC, Petitioners v. LFP IP, LLC, Respondent	Cancellation No.: 92054191 ANSWER OF RESPONDENT LFP IP, LLC
---------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------

Respondent LFP IP, LLC (“Respondent” or “LFP”), in response to the Petition for Cancellation filed by Petitioners Buddha Entertainment LLC and Asia Las Vegas LLC (the “Petitioners”), by and through its undersigned counsel hereby answers the Petition as follows:

ANSWER

1. Responding to paragraph 1 of the Petition, LFP admits that it is the owner and registrant of the mark ALWAYS A HAPPY ENDING, Registration No. 3,967,963 (the “Mark”); admits that its address of record is 8484 Wilshire Boulevard, Suite 900, Beverly Hills, CA 90211; admits that the Mark was obtained from an intent-to-use

application filed August 10, 2010 and was registered on May 24, 2011 on the Principal Register, in class 041 for “adult entertainment services in the nature of adult nightclubs and cabarets” claiming first use and first use in commerce on October 26, 2010; but denies that the Mark is used solely in connection with the club located at 6007 Dean Martin Drive, Las Vegas, Nevada 89118, rather the Mark has been used nationwide in connection with the afore-mentioned services. LFP denies the remaining allegations in paragraph 1 of the Petition.

2. Responding to paragraph 2 of the Petition, LFP is without knowledge or information to form a belief as to the truth of the allegations contained therein, and on that basis denies them.

3. Responding to paragraph 3 of the Petition, LFP is without knowledge or information to form a belief as to the truth of the allegations contained therein, and on that basis denies them.

4. Responding to paragraph 4 of the Petition, LFP is without knowledge or information to form a belief as to the truth of the allegations contained therein, and on that basis denies them.

5. Responding to paragraph 5 of the Petition, LFP is without knowledge or information to form a belief as to the truth of the allegations contained therein, and on that basis denies them.

6. Responding to paragraph 6 of the Petition, LFP is without knowledge or information to form a belief as to the truth of the allegations contained therein, and on that basis denies them; except that LFP admits that Internet Website

http://en.wikipedia.org/wiki/Happy_ending, provides a subjective explanation of the term “Happy Ending” as used in fiction.

7. Responding to paragraph 7 of the Petition, LFP is without knowledge or information to form a belief as to the truth of the allegations contained therein, and on that basis denies them.

8. LFP denies the allegations contained in paragraph 8 of the Petition.

9. Responding to paragraph 9 of the Petition, LFP is without knowledge or information to form a belief as to the truth of the allegations contained therein, and on that basis denies them.

10. Responding to paragraph 10 of the Petition, LFP is without knowledge or information to form a belief as to the truth of the allegations contained therein, and on that basis denies them.

11. LFP denies the allegations contained in paragraph 11 of the Petition.

12. LFP denies the allegations contained in paragraph 12 of the Petition.

Respondent’s Registration

13. LFP admits the allegations set forth in paragraph 13 of the Petition, subject to the clarification that the specimen also promoted and advertised clubs in New York, New York; Baltimore, Maryland; Detroit, Michigan; Cleveland, Ohio; St. Louis, Missouri; New Orleans, Louisiana; Shreveport, Louisiana; San Francisco, California; San Diego, California; Croydon, United Kingdom; and Paris, France.

Priority, Standing, Likelihood of Confusion

14. LFP denies the allegations contained in paragraph 14 of the Petition.
15. LFP denies the allegations contained in paragraph 15 of the Petition.
16. LFP denies the allegations contained in paragraph 16 of the Petition.
17. LFP denies the allegations contained in paragraph 17 of the Petition.
18. LFP denies the allegations contained in paragraph 18 of the Petition.

Registrant's Fraud in Application and Registration

19. Responding to paragraph 19 of the Petition, LFP restates and incorporates by reference its responses to the allegations contained in paragraphs 1 to 18 of the Petition.

20. LFP denies the allegations contained in paragraph 20 of the Petition.
21. LFP denies the allegations contained in paragraph 21 of the Petition.
22. LFP denies the allegations contained in paragraph 22 of the Petition.
23. LFP admits the allegations contained in paragraph 23 of the Petition, subject to the clarification that the declaration set forth in paragraph 23 is incomplete.

24. LFP denies the allegations contained in paragraph 24 of the Petition.
25. LFP denies the allegations contained in paragraph 25 of the Petition.

26. Responding to paragraph 26 of the Petition, LFP is without knowledge or information to form a belief as to the truth of the allegations contained therein, and on that basis denies them.

27. Responding to paragraph 27 of the Petition, LFP admits that it submitted a Statement of Use on or about April 5, 2011, but denies the remaining allegations contained in paragraph 27.

28. LFP denies the allegations contained in paragraph 28 of the Petition.

29. Responding to paragraph 29 of the Petition, LFP is without knowledge or information to form a belief as to the truth of the allegation concerning the USPTO's reliance, but admits that the Mark was registered on May 24, 2011. LFP denies the remaining allegations in paragraph 29 of the Petition.

30. LFP denies the allegations contained in paragraph 30 of the Petition.

31. LFP denies the allegations contained in paragraph 31 of the Petition.

Petitioner's Prayer for Relief

LFP denies that Petitioners are entitled to any of the relief requested in their prayer for relief. LFP prays that the Petition is denied and dismissed in favor of LFP.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

32. The Petition fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

33. Petitioners' claims are barred by the doctrine of unclean hands.

THIRD AFFIRMATIVE DEFENSE

34. LFP alleges that there is no likelihood of confusion, mistake or deception between LFP's Mark and Petitioners' alleged trademark.

FOURTH AFFIRMATIVE DEFENSE

35. Petitioners' claims are barred by the doctrine of acquiescence.

FIFTH AFFIRMATIVE DEFENSE

36. Petitioners' claims are barred by the equitable doctrines and affirmative defenses of laches, waiver and estoppel, as applicable.

SIXTH AFFIRMATIVE DEFENSE

37. Petitioners do not have trademark rights in ALWAYS A HAPPY
ENDING.

SEVENTH AFFIRMATIVE DEFENSE

38. Respondent currently has insufficient knowledge or information on which to form a belief as to whether it may have additional, as yet unstated, affirmative defenses available. Respondent reserves the right to assert additional affirmative defenses in the event that discovery indicates it would be appropriate.

Date: August 11, 2011

Respectfully submitted,

LFP IP, LLC, by its counsel,
Lipsitz Green Scime Cambria LLC

/Jeffrey F. Reina/
Jeffrey F. Reina, Esq.
42 Delaware Avenue, Suite 120
Buffalo, New York 14202
(716) 849-1333, Ext. 481
Facsimile: (716) 849-1315

CERTIFICATE OF SERVICE

I, Lori Vangelov, hereby certify that a true copy of the foregoing Answer of Respondent LFP IP, LLC was mailed, first class, postage prepaid this 12th day of August, 2011, upon counsel for Petitioner at the following address:

William Thomashower
Schwartz & Thomashower LLP
15 Maiden Lane
Suite 705
New York, NY 10038-5120

Dated: August 11, 2011

_____/Lori Vangelov/
Lori Vangelov